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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/952,001 11/07/97 CARR

R P97194.024

EXAMINER

PM82/0723

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PICKARD,A

ART UNIT

PAPER NUMBER

3626

DATE MAILED:

07/23/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No. 08/952,001	Applicant(s) Carr
Examiner Alison Pickard	Group Art Unit 3626



Responsive to communication(s) filed on May 17, 1999

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

Claim(s) 1-54 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-54 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

Because a first action was sent out before the pre-amendments were received, a new action as well as updated search has been done on claims 1-54 as amended in “Response to Written Opinion”.

### ***Claim Rejections - 35 USC § 112***

1. Claims 1-33 and 35-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 6, and claim 3, line 6, the limitation “said strip” lacks proper antecedent basis.

Claims 8, 13, 14, and 20, line 1, the limitation “said spoke” lacks proper antecedent basis.

Claim 9, lines 3-4, the limitation “the space” lacks antecedent basis.

Claim 21, line 6, the limitation “said strips” lacks proper antecedent basis. Only one strip has been set forth.

Claim 21, line 9, the limitation “said first strip” lacks antecedent basis.

Claim 22, line 2, the limitation “said strips” lacks antecedent basis. Is this referring to the “at least one strip” or the “plurality of strips”?

Claim 24, line 1, the limitation “a first strip” is confusing. How many strips are being claimed?

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Claim 26, line 2, the limitation “said strips” lacks proper antecedent basis. To which strips does this refer?

Claim 28, line 8, the word “a” should be replaced with --at--.

Claim 31, in line 2, change the word “stripe” to --strip-- and in line 7, change “outre” to --outer--.

Claim 32, line 1, the limitation “the property” lacks antecedent basis.

Claim 35, in line 7, change “ttanthe” to --than the--, in line 11, change “then” to --than--, and in line 15, change “ssignificantlythinner” to --significantly thinner--.

Claim 39, lines 8 and 13, the limitation “said strip” lacks proper antecedent basis.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 42-44, 48, and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith, U. S. Patent No. 4,002,344.

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Smith discloses a gasket similar to applicant's which includes a first strip of sealing material 22 with a notch 24, a spoke 46 with concavity 47, and a shelf 49. The gasket also has a spoke 51 with an aperture 52 including a tab portion 56 having identification data 57.

4. Claims 1, 7, 8, 50, 53 and 54 rejected under 35 U.S.C. 102(b) as being anticipated by Hubbard, U. S. Patent No. 1,942,704.

Hubbard discloses a gasket 21 comprising a first strip 29 of sealing material in a loop and at least one spoke 30 attached to said first strip with an alignment edge 22e. The spoke includes a curved aperture 23e with the alignment edge comprising a portion of the aperture. The curved aperture is elongated in the radial dimension (see Fig. 8). The outer periphery is rectilinear (Fig. 4). The spoke is defined by sealing material at the intersection between two linear portions of the periphery (see Fig. 4).

5. Claims 1, 9, 10, 13, 14, 20, 28, 29, 31, 32, and 34-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Mastin, U. S. Patent No. 1,245,002.

Mastin shows a gasket A in figure 1 comprising a first strip E of sealing material in a loop and at least one spoke D' attached to said first strip with an alignment edge D which is curved. The spoke D' includes a curved aperture D with the alignment edge comprising a portion of the edge of the curved aperture. The sealing material is resilient and has a hardness less than the hardness of the flanges (see col. 1, line 10). The sealing material compresses without substantial lateral expansion (see col. 2, lines 70-71). The first strip and spoke comprise a single flat piece of sealing material (fig. 1), and are made of a substantially flat, chemically inert and

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compressible sealing material (col. 1, line 10) as well as a uniform thickness (col. 2, line 100). A gasket F in figure 3 comprises a first strip G' in a loop, a second strip J' in a loop and a plurality of spokes K. A third strip G' is in a loop and between the first and second strips. An assembly comprises a first flange, a second flange adjacent the first flange defining a joint (col. 4, lines 80-86), and a first strip of sealing material formed in a loop between the flanges. A gasket F in figure 3 comprises a first strip G' in a loop, a second strip J' and an intermediate sealing material H' disposed between the strips and being thinner than the strips (col. 3, lines 32-33). A plurality of spokes K between the strips and of uniform thickness. The method is inherent from the apparatus.

6. Claims 21-27, 51, and 52 are rejected under 35 U.S.C. 102(b) as being anticipated by Oberhuber, U. S. Patent No. 1,869,577.

Oberhuber discloses a gasket 20 comprising a plurality of strips 23 of sealing material in a loop, a plurality of spokes 25, and at least one notch 24 in the outer periphery. The outer periphery is rectilinear (see figure 9, #24). The inner periphery of the second strip 23 includes a convexity 22 opposite the notch (col. 4, lines 71-72). There is also sealing material 21 thinner than the strips and spokes disposed between the plurality of strips and spokes.

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***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 11, 12, 33, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mastin in view of Tucker, U. S. Patent No. 5,052,699.

Mastin shows all of the claimed limitations except for the use of a sealing material having a hardness less than 95 on a Shore A scale. Tucker teaches selecting a material with a hardness less than 95 and between 55-70 (co. 4, lines 28-29) for the purpose of providing a suitable compression. It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the gasket of Mastin with a sealing material having a Shore A hardness below 95 and between 55-70 to achieve a suitable compression in the gasket.

9. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mastin in view of Minor, U. S. Patent No. 5,581,019.

Mastin, as described above, discloses a gasket similar to applicant's however, Mastin does not state the sealing material is PTFE, FFM, EPR, or PVDF. Minor teaches that gaskets made of the following sealing materials PTFE, FFM, EPR, or PVDF (col. 1, lines 30-38) are art equivalents. It would have been obvious for one of ordinary skill in the art at the time the

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invention was made to make the gasket of Mastin from the following sealing materials: PTFE, FFM, EPR, or PVDF as taught by Minor to be art equivalents.

10. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mastin in view of McPherson, U. S. Patent No. 5,366,257.

Mastin discloses a gasket similar to applicant's however Mastin does not include the use of neoprene as the sealing material. McPherson teaches that rubber and neoprene are art equivalents (col. 4, lines 45-54). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the material used in Mastin with neoprene as it is taught to be an art equivalent by McPherson.

11. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mastin in view of Wainer, U. S. Patent No. 5,472,214.

Mastin does not include a tab portion with identification data. Wainer shows a spoke including a tab portion 46b with identification data (co. 6, lines 5-7) in an analogous art for the purpose of providing identification. It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the gasket of Mastin with a spoke including a tab portion with identification data as shown in Wainer to provide identification.

12. Claims 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Tucker.

As described above, Smith discloses a gasket similar to applicant's except for the use of a sealing material having a hardness less than 95 on a Shore A scale. Tucker teaches selecting a

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material with a hardness less than 95 and between 55-70 (co. 4, lines 28-29) for the purpose of providing a suitable compression. It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the gasket of Smith with a sealing material having a Shore A hardness below 95 and between 55-70 to achieve a suitable compression in the gasket.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alison Pickard whose telephone number is (703) 305-0882. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Anthony Knight, may be reached at 308-3179.

AP

July 20, 1999

Chuck Y. Mah  
Primary Examiner